REMARKS

The Office Action requires restriction under 35 U.S.C. § 121 from among the following:

I. Claims 1-31, drawn to a method of treating a motor neuron disease in a patient in need thereof, comprising delivering a NOI, wherein the NOI encodes a neuotrophic product, such as SMN-1, GDNF, IGF-1 or VEGF classified in class 424, subclass 198.1.

II. Claims 1-31, drawn to a method of treating a motor neuron disease in a patient in need thereof, comprising delivering a NOI, wherein the NOI encodes a antiapoptotic product, such as XIAP, NIAP, BCL-2 or RARβ2, classified in class 514, subclass 2.

Group I is elected with traverse for further prosecution in this application.

As a traverse, it is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. (MPEP § 803) Second, searching the additional inventions must constitute an undue burden on the Examiner if restriction is not required. *Id.* In this instance, neither criterion has been met, as the inventions are not independent or distinct, nor would there be an undue burden in searching and examining the pending claims in one application.

Enforcing the present election requirement would result in inefficiencies and unnecessary expenditures by both the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, a shortened patent term may result in any divisional applications filed). The requisite showing of serious burden has not been made in the Office Action. In addition, the search and examination of each group is likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner.

In view of the above, reconsideration and withdrawal of the election requirement are requested, and an early action on the merits earnestly solicited.

Respectfully submitted,

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